

PLANNING BOARD MINUTES
PUBLIC MEETING
JUNE 10, 2010 - 7:00 P.M.
HELD AT OAKLAND SENIOR CENTER
20 Lawlor Drive, Oakland, New Jersey

Pursuant to Chapter 231, Public Law 1975 (Open Public Meetings Act) adequate notice of this meeting has been provided by:

- ❑ Adoption of an annual schedule of meetings
- ❑ Posting copy of same at Borough Hall
- ❑ Forwarding copy of same to the Record
- ❑ Mailing a copy to any person requesting same

**** MEETINGS CONCLUDE AT 10:30 P.M., THEREFORE, NO TESTIMONY WILL BE TAKEN AFTER 10:00 P.M.**

PLANNING BOARD MEMBERS:

Elaine T. Rowin, Eric Kulmala, Barry Colyer, Christopher Baczewski, Dan Hagberg, John Morris, Councilwoman Marcalus, Mayor John Szabo and Chairman Thomas Potash.

FLAG SALUTE, MEETING OPENED AT 7:10 P.M., ROLL CALL:

Present: Messrs. Kulmala, Colyer, Baczewski, Hagberg, Morris, Councilwoman Marcalus, Mayor Szabo and Chairman Potash.
Absent: Mrs. Rowin and Mayor Szabo

Also in attendance, Joseph Russo, Esq., (Board Attorney) and Kevin Tichacek, (Boswell Engineering) and Steve Lydon (Burgis Associates).

PUBLIC HEARING BEGINS:

Motioned by Mr. Morris and seconded by Mr. Baczewski, to open the meeting to the public for matters not on the agenda was voted unanimously by the Board.

No comments

Motioned by Mr. Morris and seconded by Mr. Baczewski, to close this portion of the meeting to the public for matters not on the agenda and to continue with matters on the agenda was voted unanimously by the Board.

PUBLIC HEARING:

1. Bill Smith – Bauer Drive & Ryerson Road, Block 3703, Lot 89. Public hearing for a major subdivision.

Mr. Ben Cascio, Esq. located in Franklin Lakes was before the Board to represent the applicant.

He explained that the application would be for a five-lot subdivision on a 17-acre parcel of land.

Mayor and Council had rezoned this proposed property from an Industrial Park zone to a RA-4 Residential zone prior to this application and the property was not to exceed seven building lots.

Due to environmental constraints with the property because of wetlands, the applicant now proposes five building lots with two lots requiring variances.

Mr. Cascio requested that his first witness be sworn in. Mr. George P. James from Keller & Kirkpatrick located in Morris Plains, New Jersey was sworn in. He reviewed his credentials and the Board accepted his qualifications.

Mr. James reviewed the location of the 17- acre parcel which is located between the end of Ryerson Road and Bauer Drive.

Mr. James reviewed the location of the wetlands on the property as well as “Smith Pond” which is considered State Open Water. The wetlands have made it difficult to fit seven homes along with septic systems on the property.

Mr. Cascio informed the Board that the emergency access would remain along with the dirt road easement accessing the water tank as well as the gated easement leading to Bauer Drive.

A portion of lot 5 is within the wetlands and would require some fill and permits would be filed to the NJ Department of Environmental Protection (NJDEP) for a General Permit to fill wetlands and a Soil Erosion and Sediment Control Plan Certification.

A Letter of Interpretation for freshwater wetlands has been submitted with the application as well as Flood Hazard Area and Riporion Zone Verification Approval.

Mr. James informed the Board the Applicant proposes a 28-foot wide paved roadway with a cul-de-sac. As a result of less building lots and shortened cul-de-sac, the R.S.I.S (Residential Site Improvement Standards) does not require sidewalks.

The applicant would require two steep slope variances for a small portion of the roadway and for lot five as well as a variance for lot width for lots 3 and 4. Due to the constraints caused by wetlands and the pond on the property, building envelopes were designed and positioned to best accommodate the constraints as well as the septic systems.

Exhibit A-1, Soil Erosion Sediment Plan, page 9 of 14, submitted to the Board.
Exhibit A-2, Steep Slope Map, page 5 of 15, submitted to the Board.

Mr. James explained that most of the steep slopes are manmade. Most of the property on lot 2 falls within the 15 – 25 percent steep slope range, lot 3 & 4 impact a small amount of the 15 –25 percent steep slope range and the driveway of lot 5 and the roadway impact a small percentage of steep slope in the 25 – 35 percent range.

Bulk variances being requested are for not meeting minimum lot width and not meeting minimum lot width at a cul-de-sac bulb.

Soil moving would amount to approximately 743 cubic yards for the roadway and cul-de-sac.

Bergen County Planning Board requested minor information for the application made. Their application with the Bergen County Soil Conservation District was deemed incomplete, so they will have to resubmit the application.

Exhibit A-3, Letter of Interpretation last revised in May 2008 would not expire until March 2013.

Exhibit A-4, Flood Hazard Area / Riparian Zone Verification.

Mr. James informed the Board that test pits have been conducted and completed by the Sanitarian, Deborah McGrath, from the Borough's Health Department and soil was found to be favorable. Mr. James added that the Applicant is planning to meet with the Water Department to extend a 12- inch in diameter water main from Ryerson Road.

The Board expressed that the Fire Protection Bureau requested that another fire hydrant be added. Mr. James responded that they would comply with the request.

The Board agreed that the steep slopes were de minimus in nature. However, there were concerns with two of the homes adjacent from the pond once the earth was moved. Mr. James responded that the proposed home on lot 2 would not be that close to the pond and informed the Board that they could move the proposed home on lot 4 to minimize the impact.

A discussion ensued concerning vehicles blocking the emergency access road leading to Bauer Drive which is conjoined to the driveway on lot 1. Mr. James responded that they would separate the road from the driveway. The Board requested that both emergency access roads remain gated with a sign posted "emergency access only."

The Board questioned if lot 3 would be responsible for maintaining the pond. Mr. James responded that it would be the responsibility of the owner of lot 3 and it would also be included in the deed of the property.

The Board questioned if they are proposing drainage into the pond on lot 3. Mr. James responded that there would be no drainage into the pond on the property but it would be directed out by piping to Bauer Drive and into Hopper's Pond. A discussion ensued concerning maintenance of the underground detention basin.

The Board questioned if the applicant plans to utilize the emergency access road through Bauer Drive during soil moving and construction. Mr. James responded that it would probably be a better route eliminating any disturbance to the residential properties by using the Bauer Drive emergency access road.

Mr. Lydon expressed that, by Borough Ordinance, the Applicant would be required to have Shade Tree Committee approval and would also require suitable street lighting. In addition, it may be required to stakeout wetland area for the prospective homeowner of lot 5. Mr. James responded that NJDEP may also require a split rail fence with wire separating the wetlands area.

Mr. Lydon explained that this month the Mayor and Council adopted the Borough's Amended Housing Plan and according to the affordable housing obligation, the Applicant's project would be assessed at 20 percent of the proposed development which is one unit. The Applicant may be able to appear before the Council of Affordable Housing (COAH) and request the issuance of a Scarce Resource Restraint.

Mr. Cascio expressed his concerns with the current obligation for COAH and the uncertainty of COAH's future. If the Applicant is approved and the COAH regulations remain the same, it would not be favorable for the applicant. Mr. Russo responded that there are still changes going on in Trenton concerning the future of Affordable Housing. However, the best that the Board can do would be to grant an approval subject to the applicant complying with the current COAH regulations.

The Board commented on the condition of Mr. Smith's vacant property on Ramapo Valley Road that has not yet been developed but has been used for storing equipment and materials. Mr. Smith responded that the recession has affected this project but he does plan to begin construction this year.

Motioned by Mr. Colyer and seconded by Councilwoman Marcalus, to open the meeting to the public regarding matters concerning the Smith application was voted unanimously by the Board.

Mr. Joseph Lamonico, 39 Roth Avenue, questioned if setbacks and building envelopes would remain the same and if he would have access to the fire hydrant that is on the applicant's property. Most likely the setbacks and building envelopes would remain the same and he explained that it is up to the fire department to decide what fire hydrant to access.

Mr. Small, 41 Roth Avenue, questioned if it would be necessary to use fill on lot 4. Mr. James responded that they would have to fill lot 4 a small amount and a submission has to be made to NJDEP allowing less than an acre of fill to wetlands.

Mr. Matthew Folina, 149 Dogwood Avenue, questioned whether a gate would remain closed on Ryerson Road during construction. Mr. James responded that a gate would remain closed.

Mr. Folina questioned if the surrounding wells would be affected by runoff with an increase of impervious coverage. Mr. James responded that along with this application, the applicant has submitted a stormwater management plans currently being reviewed. He expressed that all drainage and runoff issues would be addressed and taken care of and needs engineering approval.

Motioned by Mr. Colyer and seconded by Councilwoman Marcalus, to close the meeting to the public regarding matters concerning the Smith application was voted unanimously by the Board.

Mr. Russo recommended that the Board authorize him to draft a resolution in the affirmative and vote to approve the application at the next meeting.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg, to authorize the Board Attorney to draft a resolution in the affirmative for the Smith application.

Roll Call Vote: Ayes: Messrs. Kulmala, Baczewski, Colyer, Hagberg,
 Morris, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mrs. Rowin and Mayor Szabo.

Meeting recessed at 8:39 p.m.

Meeting resumed at 8:50 p.m.

2. Bartholome – 68 Spruce Street, Block 2302, Lot 3. Public hearing for a preliminary and final site plan.

Mr. Ira Weiner, Esq. with Beattie Padovano, LLC located in Montvale, New Jersey was before the Board to represent the Bartholome application. He explained that his client is seeking site plan approval to utilize their 16-acre parcel of land as a recycling and composting facility for leaves and wood.

Prior to this application, the Applicant applied to the Oakland Zoning Board of Adjustment for an interpretation of the zone, no variance was needed. Since the applicant had not yet received their approval from the Department of Environmental Protection (DEP) for a composting facility, the Zoning Board of Adjustment decided that the local ordinance would govern prohibiting this type of facility in an I-3 Industrial zone. The Zoning Board of Adjustment then informed the applicant that they would be required to come back before the Board with a use variance application. This decision was appealed and reversed by the Superior Court.

Mr. Weiner informed the Board that presently the applicant has obtained approval April 28, 2009 from the Solid Waste Management division of NJDEP to operate a Class B and Class C composting facility. There would be no construction proposed and the only activity at the site would be mulching of organic materials which includes leaves and twigs.

Mr. Weiner explained that local zoning regulations are preempted under the law of the Solid Waste Management Act. He informed the Board that after their application was approved by NJDEP, his client met with the County and the Mayor to discuss how to move forward with their facility. It was suggested and his client go before the Planning Board to inform the town what type of operations would be conducted at the site.

A discussion ensued concerning the reason the applicant is before the Planning Board if the Solid Waste Management Act preempts them from all local zoning. Chairman Potash expressed that a typical application has certain stipulations from the State and County but the Planning Board has jurisdiction over in areas where zoning applies.

Mr. Weiner compared a Superior Court case law similar in nature that ruled that the municipality could not interfere. He explained other state and county agencies that are preempted by the Solid Waste Management Act such as Railroads and Department of Transportation (NJDOT).

Mr. Weiner informed the Board that Katie and Michael Bartholome are the property owners of this site. He offered the testimony of his first witness.

Mr. Wayne DeFeo, Environmental Consultant and certified teacher of solid waste was sworn in. He reviewed his credentials with the Board and the Board accepted his qualifications.

Mr. DeFeo explained that the property has been conducting as a recycling and composting facility. The applicant has recently filed and received approval from the NJDEP to operate a Class B and Class C composting facility.

He expressed that there is a shortage of this type of facility and currently there are two facilities listed in the Borough, the Bartholome's location and the Borough of Oakland has a location.

These facilities are allowed to compost up to 10,000 cubic yards of leaves and twigs. The Bartholome facility would be composting at 20 percent of the allowable cubic yards.

Mr. DeFeo explained the process involved in composting. He explained that the leaves are turned approximately once a month and breakdown in the presence of oxygen. In the center of the pile, the temperature rises and cooks the leaves. The temperature is monitored and in the event the pile reaches above 140 degrees, it needs to be turned to cool it down.

Mr. DeFeo explained that there are specific state regulations that cannot be violated such as odor laws, noise and vermin. These regulations are monitored by a licensed "regulator operator" whom is required to be on site at all times.

Mr. Weiner expressed that the NJDEP can come in at any time and does do periodic inspections. If penalties are minor, there would be a fine and a period of time for it to be corrected. However, if penalties are more substantial or minor penalties continue, the NJDEP will shut the operation down.

The Board expressed their concerns of trucks cueing up on Ramapo Valley Road at the entrance of the site. Mr. Weiner responded that the NJDEP prohibits the cueing of trucks and the operator would have to control this along with other things. This operation is seasonal and the busiest time would be between the months of October and December. He expressed that he does not see a problem with cueing at the site due to the small size of the facility. The remainder of the 6 to 9 months would be mostly the composting of the leaves.

The Board questioned how the operator would avoid the cueing of trucks. Mr. Weiner responded that they would use radios or schedule certain times for trucks to visit the site.

The Board questioned if wood chipping and grinding tree stumps as well as having it shipped out immediately was permitted and part of the composting process. Mr. DeFeo responded that it is part of the composting process but did not understand why it would be shipped out right away.

The Board questioned the total volume of material permitted to be stored at the site and when trucks are unloading at the site how would that be measured. Mr. DeFeo responded that approximately 2,000 cubic yards within a 6 by 14 foot windrow would be the maximum amount. Comments were made by the Board that mulch piles appear to be 35-feet in height.

The Board requested to see the plans submitted to the NJDEP and questioned whether the same plans submitted to the Board were submitted to the NJDEP. Mr. Weiner responded that the same plans the Board received were the same plans submitted to the NJDEP. A discussion ensued concerning the 100-year floodway line not appearing on plans submitted to NJDEP.

The Board questioned if Mrs. Bartholome is a licensed operator by the NJDEP and would she be at the site at all times. Mr. DeFeo responded that Mrs. Bartholome is a licensed operator but would hire another licensed operator to be at the site at all times.

The Board questioned if any chemicals are used during the breakdown or composting process. Mr. DeFeo responded that not normally but if necessary or if there is excessive odor, then lime would be used to accelerate the process.

A discussion ensued concerning fire prevention measures that would be taken at the site. Mr. DeFeo responded that rarely are there any fires within composting facilities. However, if a pile is smoldering, it is not to be turned but flooded with water to cool the pile down.

The Board questioned how the odor threshold is measured. Mr. DeFeo responded that the county uses a 1 – 5 scale with 3 or above as being a mandatory penalty. A certified inspector would visit the site and examine the problem in the event of a complaint.

The Board questioned once again if carting in the mulch and carting the mulch out right away was part of the recycling operation. Mr. DeFeo responded as a Class B composting site, transferring mulch is permitted. The Board questioned if it was permitted for a 40-foot trailer to dump mulch and smaller landscaping trucks come in and take it out. That could be in violation of their DEP permit.

Mr. Tichacek expressed that the site plan shows that the windrows are going to be placed upon a water easement that runs directly beneath it. It would have to be stipulated in the resolution that any damage caused by the windrow to the water main easement would not be the Borough's responsibility.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg, to open the meeting to the public regarding matters concerning the Bartholome application was voted unanimously by the Board.

Mr. Kenneth Strom, 80 Hemlock Street, expressed that during the flood project, a pile of logs were left for a long time before being remove. Mr. Weiner responded that those were trees removed by the Army Corp. of Engineers and were eventually removed once the project was completed.

Mr. Louis Levy, Flood Commission Chairman, expressed that his understanding is that a letter of exemption or being grandfathered would still not permit any operation within the floodway. He expressed that this particular site is located 8 to 10 feet below the 100-year flood plain.

Chairman Potash explained that there are different divisions of the DEP and questioned whether the plans were submitted to the division that deals with flood plains. Mr. Russo questioned again if the plans submitted to the Board were the exact plans submitted and approved by the NJDEP. Mr. Weiner responded that the plans the Board received are exactly what NJDEP approved. A discussion ensued concerning whether the plans approved by NJDEP showed the 100-year flood plain.

Exhibit A-1, Site Plan received by the Board dated April 8, 2010.

Mrs. Dorothy Oconnor, 70 Hemlock Street, informed the Board that she has been a neighbor of the property all her life and that property does flood. Also, she has complained on numerous occasions of the smell and it takes days for someone to respond. By the time they respond to the smell, it has usually subsided.

The Board questioned where complaints should be directed since the municipality has no jurisdiction to enforce these matters. Mr. Weiner responded that complaints should be directed to the County Health Department.

The Board questioned what the hours of operation would be. Mr. Weiner responded that hours of operation would be during daylight.

The Board expressed concerns with what is called "cooking leaves" and no specific fire prevention plan to handle a fire. Mr. DeFeo responded that piled leaves do not combust and are frequently wet. The leaf piles are closely monitored and the temperature is controlled. What most people notice is steam coming from the leaf piles.

The Board informed Mr. DeFeo that it has been noticed some of the mulch piles have weeds and trees growing from them. Mr. DeFeo responded that this does happen but according to NJDEP regulations, mulch piles are required to be completely removed at least once a year. He expressed that because mulch is

high in demand and people are not permitted to make their own mulch, this site should be able to move mulch very quickly.

Mr. Levy expressed that his concerns were that in the event of a flood, debris from this property could be pulled in and flow down the river preventing the floodgates closing. Mr. Weiner responded that the property is grandfathered and there is plenty of buffering and forest life to prevent any material from leaving the site and flowing down stream.

Exhibit A-2, Letter of Proof as being Grandfathered.

Ms. Connor expressed her concerns that the 35-foot high mulch piles could impede the flood flow.

Motioned by Mr. Colyer and seconded by Mr. Morris, to close the meeting to the public regarding matters concerning the Bartholome application was voted unanimously by the Board.

Chairman Potash announced that due to the time and other business to finish that he recommends that the Bartholome application be carried to the July 8, 2010 public hearing.

MEMORIALIZATION:

1. Raku Sushi – 400 Ramapo Valley Road, Block 3901, Lot 1. Approval for an amended site plan.

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Kulmala, Colyer, Hagberg, Councilwoman Marcalus and Chairman Potash.
 Nays: None
 Abstain: None
 Absent: Mrs. Rowin and Mayor Szabo.

2. Collagen Matrix – 15 Thornton Road, Block 3202, Lot 1. Approval for an amended site plan.

Mr. Russo informed the Board an amendment was made to the resolution to replace requested wheel stops with bollards.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Kulmala, Colyer, Hagberg, Councilwoman Marcalus and Chairman Potash.
Nays: None
Abstain: None
Absent: Mrs. Rowin and Mayor Szabo

3. American Musical Supply – 8 Thornton Road, Block 3201. Lot 4.
Approval for a Certificate of Occupancy.

Motioned by Councilwoman Marcalus and seconded by Mr. Colyer, to memorialize the above resolution of approval.

Roll Call Vote: Ayes: Messrs. Kulmala, Colyer, Hagberg, Councilwoman Marcalus and Chairman Potash.
Nays: None
Abstain: None
Absent: Mrs. Rowin and Mayor Szabo

PAYMENT OF BILLS:

Motioned by Mr. Hagberg and seconded by Councilwoman Marcalus, to approve the payment of bills subject to the availability of funds.

Roll Call Vote: Ayes: Messrs. Kulmala, Colyer, Baczewski, Hagberg, Morris Councilwoman Marcalus, and Chairman Potash.
Nays: None
Abstain: None
Absent: Mrs. Rowin and Mayor Szabo

APPROVAL OF MINUTES:

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg, to approve the May 13, 2010 Minutes.

Roll Call Vote: Aye: Messrs. Kulmala, Colyer, Hagberg, Councilwoman Marcalus and Chairman Potash.
Nays: None
Abstain: Messrs. Baczewski, Colyer and Morris.

NEW BUSINESS:

The Board discussed that signs are being changed at the crosswalks to reflect the new law passed.

OLD BUSINESS:

Mr. Lydon informed the Board that the Mayor and Council adopted the Amended Housing Plan and Fair Share Plan Element. It has since been sent to the County and COAH before the June 8, 2010 deadline.

PUBLIC MEETING ADJOURNED AT 11:00 P.M.

Motioned by Councilwoman Marcalus and seconded by Mr. Hagberg to adjourn the meeting by a unanimous vote by the Board.

Respectfully submitted by,

Kathlyn Gurney/Administrative Assistant